

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company

**Petition to Make Housekeeping
Revisions and a Compliance Change
to filed Rate Formula.**

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Docket No. 14-0316

**STAFF OF THE ILLINOIS COMMERCE COMMISSION REPLY IN SUPPORT OF ITS
MOTION FOR LEAVE TO FILE EXCEPTIONS TO COMMONWEALTH EDISON
COMPANY’S DRAFT ORDER, FOR ENTRY OF AN INTERIM ORDER AND TO
REOPEN THE RECORD**

NOW COME the Staff of the Illinois Commerce Commission (“Staff”) and pursuant to the Administrative Law Judge’s May 1, 2014 Ruling file this Reply in Support of its Motion for Leave to File Exceptions to Commonwealth Edison Company’s Draft Order, for Entry of An Interim Order, and to Reopen the Record (“Staff Motion”) and in response to Commonwealth Edison Company’s May 23, 2014 Response to Staff’s Motion (“Response”).

BACKGROUND

1. On April 16, 2014, Commonwealth Edison Company (“ComEd”) filed its Annual Formula Rate Update and Revenue Requirement Reconciliation (“2014 FR Filing”), contemporaneously with a Petition to Make a Housekeeping Revision and a Compliance Change to its Filed Performance Based Delivery Service Rate Formula. (“Petition”). ComEd noted that “a housekeeping change should be made to the rate formula in order to make the formula more readily understood.” Petition at 4. ComEd also noted that the Final Order in Docket No. 13-0318 (“2013 FR Filing”) required a

change to the Cash Working Capital (“CWC”) calculation inputs. Id. at 5. ComEd included the revisions to the schedules and appendices, which Staff reviewed. ComEd's 2014 FR Filing reflects the 13-0318 Order’s Cash Working Capital directive in Schedule B-1 and Appendix 3.

2. Staff filed a Response on May 8, 2014 (“Staff’s May 8 Response”) stating Staff had no objection to ComEd’s Petition, but making certain requests for the Commission’s Order. Specifically, Staff stated that while Staff did not oppose ComEd’s proposed housekeeping revisions and compliance change Staff believed the approval sought here is unnecessary because much of the revisions ComEd proposes are to implement directives in the Commission’s 13-0318 Order. Moreover, Staff expressed concern that a Section 9-201 approval here would prejudice the result of pending Docket No. 13-0501,¹ where Staff asserts that changes to supporting formula rate schedules, appendices, and workpapers, such as those at issue in this proceeding, do not require Section 9-201 approval, as the supporting formula rate schedules, appendices, and workpapers do not comprise the formula rate structure. Staff’s May 8 Response at ¶5. ComEd filed a Draft Order on May 14, 2014, without Staff review, omitting Staff’s discussion and arguments from Staff’s May 8 response but including Staff’s proposed language in the Orderings paragraphs, with one modification to which Staff agreed.

3. On May 16, 2014, Staff filed its Motion. In it, Staff requested that: 1) Staff’s exceptions to ComEd’s proposed Draft Order be granted, which included Staff’s arguments and positions from its May 8 Response; 2) the Draft Order be an Interim

¹ Docket No. 13-0501/13-0517 (Cons.) is a pending docket involving a complaint to suspend tariff changes submitted by Ameren Illinois and to investigate Ameren Illinois Rate MAPP pursuant to Sections 9-201, 9-250 and 16-108.5 of the Public Utilities Act. An ALJ Proposed Order was issued on May 9, 2014.

Order; and 3) the Docket be re-opened to conduct a second phase. In the second phase, the Commission would hear evidence and argument related to: (a) the issue of possible changes to schedules necessary to reflect future changes in the appropriate depreciation rate to apply to the projected plant additions and embedded plant in ComEd's formula rate revenue requirement, with the specific depreciation rate used for rates going into effect on January 1, 2015 to be determined in Docket No. 14-0312; (b) the issues raised in Docket No. 13-0501/13-0517 (Cons.); and (c) any other issues that may require a change to a formula rate schedule, appendix or workpaper. Whether the Commission needs to approve changes to schedules other than FRA-1 and FRA-1REC, appendices, and workpapers outside of a Section 16-108.5 proceeding is the same legal issue posed to the Commission in Docket Nos. 13-0501/13-0517 (Cons.). It is Staff's position that the Commission may approve changes to schedules other than FRA-1 and FRA-1REC, appendices, and workpapers within a Section 16-108.5 proceeding. In its Motion, Staff noted that this Docket was initiated under Sections 16-108.5 and 9-201 of the PUA, the appropriate sections to address such issues. Staff Motion at ¶16.

4. On May 23, 2014, ComEd filed a Response to Staff's Motion ("ComEd Response"). Staff files this Reply in response to ComEd's Response.

RESPONSE TO COMED'S FILING

5. ComEd repeatedly remarks that Staff's Motion is untimely and beyond the scope of the proceeding. ComEd Response at 1, 4, and 9. Staff notes that its Motion was not contemplated by the schedule; however, as pointed out in its Motion, Staff did not review ComEd's proposed Draft Order and had exceptions thereto. Staff filed a Motion

for Leave to File such a response since one was not provided for in the Ruling by the ALJ; therefore, any untimeliness is cured. Finally, the ALJ ordered Responses and Replies to Staff's Motion, allowing ComEd to respond accordingly. ComEd's ten-page Response surely addresses its concerns fully, and ComEd is not prejudiced by Staff's filing.

6. It appears that ComEd, for the most part, is amenable to Staff's proposal. ComEd states that it is willing to work with Staff to prepare a Revised Joint Draft Interim Order that reflects both parties' positions on the necessity of the Commission's approval of changes to supporting schedules to accommodate the Commission's ruling concerning the second CWC calculation in the 13-0318 Order. ComEd Response at 6, fn 5. Staff recommends the parties attempt to file a Joint Interim Order by June 19, 2014. If the parties are unable to come to an agreement by such date, the parties will file separate Draft Interim Orders.

7. The second phase of this Docket will consist of at least the two issues as described in Staff's Motion: 1) possible changes to schedules necessary to reflect future changes in the appropriate depreciation rate to apply to the projected plant additions and embedded plant in ComEd's formula rate revenue requirement; and 2) the legal issue of what is and what is not the formula rate structure ("the Ameren 13-0501 issues"). Staff Motion at ¶ 11 and 15. As stated previously, the Ameren 13-0501 issues are whether the Commission needs to approve changes to schedules other than FRA-1 and FRA-1REC, appendices, and workpapers outside of a Section 16-108.5 proceeding. ComEd appears to agree that these two issues could be added to "the instant Docket, if the scope is defined and the timing for a final order is fair and

reasonable.” ComEd Response at 8. It is Staff’s opinion that a November 30, 2014 date for a Final Order is fair and reasonable, as the scope of these two issues is discussed extensively in Staff’s May 8 Response (on the Ameren 13-0501 issues) as well as Staff’s Motion (on the schedule changes to reflect any future changes in the appropriate depreciation rate to apply to the projected plant additions and embedded plant in ComEd’s formula rate revenue requirement).

8. ComEd objects to any other issues being added to the second phase of this Docket because it would “create unnecessary uncertainty about the rate formula, which is inconsistent with the formula rate statute’s design.” Id. Staff understands ComEd’s concerns, but notes that as discovery is still underway in the 2014 FR Filing, Staff has not yet identified all of the potentially contested issues that may require changes to schedules or appendices. Staff is hopeful that during the three-week period proposed for the parties to work on a Joint Interim Draft Order, Staff would identify any remaining issues which may be appropriately adjudicated within this Section 9-201 Docket. Any new issues would be addressed in the Joint Interim Draft Order, specifying the scope of the second phase of the Docket. Should no other issues come to light during this period, Staff recommends only the two issues described above be included in this second phase.

WHEREFORE, Staff recommends the Commission order the parties to file a Joint Draft Interim Order or Draft Interim Orders by June 19, 2014 which describes the scope of the second phase of the docket consistent with Staff’s recommendations above.

Respectfully submitted,

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